

*Government Notice No. 144 of 2017***THE MERCHANT SHIPPING ACT****Regulations made by the Minister under section 228 of
the Merchant Shipping Act****1. Short title**

These regulations may be cited as the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 2017.

2. Interpretation

In these regulations –

“Act” means the Merchant Shipping Act;

“appropriate certificate” means a certificate issued and endorsed in accordance with these regulation;

“Code” means the Seafarers’ Training, Certification and Watchkeeping (STCW) Code;

“company”, in relation to a ship –

(a) means –

(i) the owner;

(ii) the manager;

(iii) the bareboat charterer who has assumed responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations; and

(b) includes an individual or any other entity;

“GT” means –

(a) gross tonnage;

(b) in relation to a ship having alternate gross tonnage, the larger of those tonnages;

“hazardous cargo” means a cargo which is, or may be, explosive, flammable, toxic, health threatening or environment polluting;

“length” has the same meaning as in the Merchant Shipping (Tonnage) Regulations 1994;

“minimum safe manning document” –

(a) in relation to a Mauritius ship, means a minimum safe manning document issued by the Director;

(b) in relation to a ship other than a Mauritius ship, means a minimum safe manning document issued by or on behalf of Government of the State whose flag the ship is entitled to fly;

“record” means a record of the hours of work in the form set out in the First Schedule;

“safety committee” means a safety committee set up for the purpose of safety on board vessels and which shall comprise the master or his representative, the Chief Engineer or his representative, a safety officer designated as such and a safety representative elected by the crew;

“seagoing” means going to sea beyond the limit of the territorial waters of Mauritius;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.

3. Application

(1) Subject to paragraph (2) these regulations shall apply to –

(a) seagoing Mauritius ships wherever they are; and

- (b) other ships while they are within Mauritius waters.
- (2) Regulations 6 to 10 shall apply only to Mauritius ships.
- (3) These regulations shall not apply to –
 - (a) fishing vessels;
 - (b) pleasure crafts as specified in the Tourism Authority Act;
 - (c) ships not exceeding 15 net tonnes or under a length of 24 metres.

4. Responsibilities of companies, masters and designated crew members

- (1) This regulation shall apply to Mauritius ships only.
- (2) No ships company shall employ a seafarer to work on board any of its ships unless –
 - (a) the seafarer holds an appropriate certificate in respect of the functions performed by him on the ship;
 - (b) the seafarer has undergone such training programme as the Director may approve in respect of the functions performed by him on the ship;
 - (c) it is satisfied that the seafarer can effectively discharge his duties during emergencies for safety reasons and prevention of pollution;
 - (d) documentation and data relevant to all seafarers employed on its ships are maintained and readily available for inspection, including documentation and data on their experience, training, medical fitness and competency in assigned duties.

(3) Nothing in paragraph (2) shall prohibit the allocation of tasks where such tasks –

- (a) relate to training under supervision;
- (b) are performed in case of force majeure.

(4) The master of every ship shall ensure that all seafarers who are newly employed on board a ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements required for the proper performance of their duties.

(5) (a) The owner of every ship shall issue written instructions to the master of the vessel setting out the policies and procedures to be followed to ensure that the provisions of paragraph (4) are complied with.

(b) The company and master of the ship shall ensure that masters, officers, and other seafarers, whilst performing designated safety, security and marine environmental duties have a limit not exceeding 0.05 per cent blood level (BAC) or 0.25 mg/l alcohol in the breath.

(6) The instructions referred to in paragraph (5)(a) shall –

- (a) include the allocation of a reasonable period of time during which every newly employed seafarer will have an opportunity to become acquainted with –
 - (i) the specific equipment the seafarer will be using or operating; and
 - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to properly perform the duties assigned to him; and

- (b) designate a competent crew member for the purpose of paragraph (7).

(7) The master or any person designated under paragraph (6)(b) shall provide to every newly employed seafarer information required to be communicated under these regulations in a language the seafarer understands.

5. Minimum safe manning document

- (1) A company owning a ship of not less than 500 GT or shall –
 - (a) provide its ship with a minimum safe manning document in respect of the ship and the manning of the ship;
 - (b) ensure that the manning of the ship is maintained, at all times, to at least the levels specified in the minimum safe manning document.
- (2) The master of the ship referred to in paragraph (1) shall –
 - (a) not proceed to sea unless there is, on board, a valid minimum safe manning document issued in respect of the ship;
 - (b) ensure that the manning of the ship is maintained, at all times, to at least the levels specified in the minimum safe manning document.
- (3) The minimum safe manning document shall remain valid for a period of one year from the date of its issue.
- (4) A company applying for a minimum safe manning for a Mauritius ship shall –
 - (a) in case the gross tonnage is of not less than 200 GT, the ship shall comply with such manning scale as the Director may determine;

- (b) in case the gross tonnage is less than 200 GT, submit to the Director the proposed number and grade of personnel it considers appropriate so that the ship would be safely manned if it were to proceed to sea on any intended voyage;
- (c) where a ship operates in a specific trading area or is engaged in specific operations, the company shall submit to the Director their proposed number and grade of personnel it considers appropriate so that the ship would be safely manned if it were to proceed to sea in the designated area or to carry out the specific operations.

(5) Where a company submits any proposals under paragraph (4), the company shall comply with directives issued by the Director.

(6) The company shall, after having been issued a minimum safe manning document, inform the Director as soon as any circumstances pertinent to that minimum safe manning document, change for the purpose of enabling the Director to review the continuing validity of the document or approve fresh proposals from the company.

(7) Where the Director is informed of any change in the circumstances pertinent to the minimum safe manning document, he may –

- (a) review the validity of the minimum safe manning document; or
- (b) where the company submits fresh proposals, approve the proposals.

6. General duty of company, employers and masters

(1) Subject to regulations 7(5) and 9, the master or any seafarer shall not be required to work for such length of time as shall –

- (a) endanger the safety of the ship;
- (b) adversely affect the master's and seafarer's performance of their duties.

(2) Every person assigned duty as officer in charge of a watch, or as a rating forming part of a watch, and whose duties involve designated safety prevention of pollution and security duties shall be provided with a rest period as specified under regulation 7(4).

(3) For the purpose of determining safety in relation to paragraphs (1) and (2), the number of hours the master or seafarer has worked on a particular day, including overtime and operation conditions, shall be taken into consideration.

7. Schedule of duties and need to keep record

(1) A company shall keep a record of the hours of work performed by the master or seafarer in the form set out in the First Schedule.

(2) Where the master or seafarer is not an employee of the company, the company shall consult the employer of the master or seafarer before preparing the record.

(3) The master shall, on being consulted by the company, seek the views of –

- (a) the ship's safety committee; and
- (b) such representatives of the seafarers as may have been appointed by the latter.

(4) A record shall, subject to regulation 6 –

- (a) set out the hours of work of –

-
- (i) the master and those seafarers whose duties include regular watchkeeping or ship handling; and
 - (ii) the ship's chief engineer, chief officer and second engineer officer; and
- (b) specify –
- (i) the maximum period of continuous watchkeeping;
 - (ii) the minimum period of rest between watches;
 - (iii) the total daily, weekly and monthly hours of work;
- (c) provide a rest period of not less than –
- (i) a minimum of 10 hours of rest in any 24-hour period which may be divided into not more than 2 periods, one of which shall be of a length of at least 6 hours; and
 - (ii) 77 hours in any 7-day period.
- (5) (a) Notwithstanding paragraph (4)(c), the minimum period of 10 hours may be reduced to not less than 6 consecutive hours provided –
- (i) that such reduction shall not extend beyond 2 days; and
 - (ii) not less than 70 hours of rest is provided in each 7-day period.
- (b) Exceptions from the weekly rest period specified in paragraph 7(4)(c)(ii) shall not be allowed for more than 2 consecutive weeks and the intervals between 2 periods of exceptions on board shall not be less than twice the duration of the exception.

(c) (i) The hours of rest specified in paragraph (4)(c)(i) may exceptionally be divided into not more than 3 periods one of which shall be of a length of at least 6 hours.

(ii) The other 2 periods shall be of a length of not less than less than one hour and the intervals between 2 consecutive periods of rest shall not exceed 14 hours.

(d) Exceptions shall not be more than 2 24-hour periods in any 7-day period.

(e) Exceptions shall take into account the guidance regarding prevention of fatigue in section B-VIII/1 of the STCW Convention.

(6) The owners or employers shall, in setting the hours of work for the purpose of the record, give due consideration to the category of shipping operations undertaken by the ship.

(7) The record shall not be changed unless –

(a) the company or employer has sought the views of the master;

(b) the master has sought the views of the persons referred to in paragraph (3); and

(c) where the company is not the employer, the company has consulted the employer of the master and seafarer.

(8) The company shall display the record in a prominent place where all seafarers have access to it.

(9) Subject to regulation 9, the master shall ensure that the hours of work specified in the record are not exceeded.

(10) The company and the master shall maintain on every ship a copy of the record and a record of all changes effected thereto.

(11) The company shall –

- (a) keep the documents referred to in paragraph (10) for a period of 5 years from the date on which the record was made; and
- (b) make the records available for inspection by the Superintendent of Shipping or a surveyor.

8. Duties of master and seafarer

The master and seafarer shall not commence duty on a ship unless –

- (a) he is properly rested;
- (b) he has, during the periods that he is off duty, had rest in accordance with regulation 7(4).

9. Exception for emergencies

(1) Regulation 7(5) shall not apply in the case of an emergency or drill or other operational conditions.

(2) Notwithstanding regulation 7 or other operational conditions, where an emergency arises which threatens the safety of the ship or the life of any person or threatens to cause damage to the environment, the master may –

- (a) work in excess of the hours of work prescribed in the record;
- (b) require any seafarer to work in excess of the hours prescribed in the record;

(3) Where the master or seafarer has worked during a rest period provided for by the record, an entry shall be made in the record setting out the reason why he has so worked.

10. Watchkeeping arrangements

The company and master of every ship shall ensure that the principles and arrangements in relation to watchkeeping standards set out in the Second Schedule are complied with.

11. Carriage of documents

(1) The company and master shall ensure that there is kept, at all times on board the ship, the original certificates and other documents issued pursuant to the STCW Convention.

(2) The documents referred to in paragraph (1) shall include a document which indicates whether any member of the crew is qualified to perform the functions which the member is required to perform on board the ship as part of their duties.

12. Inspection of non-Mauritius ships

(1) This regulation shall apply to a ship, other than a Mauritius ship, within the territorial waters of Mauritius.

(2) A surveyor may inspect a ship for the purpose of verifying that all seafarers serving on board who are required to be certificated hold valid appropriate certificates for the duties they are performing.

(3) Where –

- (a) a ship is involved in a collision, grounding or stranding;
- (b) there is an unlawful discharge of substances from the ship when underway, at anchor or at a berth;

- (c) a ship is manoeuvred in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed;
- (d) a ship is otherwise operated in such a manner as to pose a danger to persons, property or the environment,

while in a port in Mauritius or in the approaches to that port and a surveyor has reason to believe that the watchkeeping standards are not being complied with, the surveyor may inspect the ship for the purpose of assessing the ability of the seafarer to perform the watchkeeping duties in accordance with this regulation.

(4) Where a surveyor finds, on inspection, any deficiency of a kind specified in paragraph (5) –

- (a) he shall notify the master of the ship;
- (b) where the ship is registered outside Mauritius, the Director, shall inform the Flag State where the ship is registered.

(5) For the purpose of paragraph (3) a deficiency shall include –

- (a) a failure of any seafarer, required to hold an appropriate certificate, to have a valid appropriate certificate or a valid dispensation from that requirement, or provide documentary proof that an application for an endorsement has been submitted to the administration;
- (b) a failure to comply with the minimum safe manning documents;
- (c) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;

- (d) an absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- (e) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

13. Power to detain

Where –

- (a) a Mauritius ship contravenes these regulations; or
- (b) a ship other than a Mauritius ship –
 - (i) contravenes regulations 5, 11, 12; or
 - (ii) fails to correct a deficiency specified in regulation 12(5) after a notice has been served to the master under regulation 12(4), and the level of competency does not satisfy the requirements of the STCW Convention and there is in consequence a danger to persons, property or the environment;
 - (iii) does not have in a watch a person qualified to operate equipment essential for safe navigation, safety radio communication or the prevention of marine pollution; and
 - (iv) does not have for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested, or otherwise fit for duty,

the ship may, for the purposes of section 78 of the Act, be deemed to be unsafe.

14. Revocation

The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 2002 are revoked.

15. These regulations shall come into operation on 1 August 2017.

Made by the Minister on 19 July 2017.

FIRST SCHEDULE

[Regulation 7]

**MODEL FORMAT FOR RECORD OF HOURS OF WORK
OR HOURS OF REST OF SEAFARERS**

Name of ship

IMO no. (if any)

Flag of ship

Name of seafarer

Position/rank

Month and year

 Watchkeeper¹
 Yes No
RECORD OF HOURS OF WORK/REST²

Please mark periods of work or rest, as applicable, with an X, or using a continuous line or arrow.

The following national laws, regulations and/or collective agreements governing limitations on working hours or minimum rest periods apply to this ship –

.....

(I agree that this record is an accurate reflection of the hours of work or rest of the seafarer concerned)

.....
 Name of master or officer authorised
 by master to sign this record

.....
 Signature of master/authorised officer

.....
 Name of seafarer

.....
 Signature of seafarer

Note: A copy of this record is to be given to the seafarer. This form is subject to examination and endorsement under procedures established

.....
.....

by
(name of competent authority)

- 1. Check as appropriate
- 2. Delete as appropriate

APPENDIX II

**MODEL FORMAT FOR TABLE OF SHIPBOARD
WORKING ARRANGEMENTS ⁴**

Name of ship

Flag of ship

IMO no. (if any)

Latest update of table () of () pages

The maximum hours of work or minimum hours of rest shall be applicable in accordance with (national law or regulation) issued in conformity with ILO’s Maritime Labour Convention, 2006(MLC) and with any applicable collective agreement registered or authorised in accordance with the Convention and with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention).

Maximum hours of work or minimum hours of rest ⁵

.....

Other requirements

.....

Position/ rank ⁶	Scheduled daily work hours at sea		Scheduled daily work hours in port		Comments	Total daily work/ rest ³ hours	
	Watchkeeping (from-to)	Non-watchkeeping duties (from-to) ⁷	Watchkeeping (from-to)	Non-watchkeeping duties (from-to)		At sea	In port

.....
Name of master

.....
Signature of master

⁵ *Delete as appropriate*

⁶ For those positions/ranks that are also specified in the ship's minimum safe manning document, the terminology used shall be the same as in that document.

⁷ For watchkeeping personnel, the comments section may be used to indicate the anticipated number of hours to be devoted to unscheduled work and any such hours should be included in the appropriate total daily work hours column.